

Effective 5/10/2016

**Part 13
Phased Retirement**

49-11-1301 Definitions.

As used in this part:

- (1) "Amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's part-time position were considered to be an eligible, full-time position within that system.
- (2) "Full-time" means a:
 - (a) regular full-time employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 40 hours or more per week and who receives benefits normally provided by the participating employer;
 - (b) teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches full time;
 - (c) firefighter service employee whose employment normally requires an average of 2,080 hours of regularly scheduled firefighter service per year; and
 - (d) public safety service employee whose employment normally requires an average of 2,080 hours of regularly scheduled public safety service per year.
- (3) "Half-time" means:
 - (a) a regular employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours per week and who receives benefits normally provided by the participating employer;
 - (b) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time;
 - (c) a firefighter service employee whose employment normally requires an average of 1,040 hours of regularly scheduled firefighter service per year;
 - (d) a public safety service employee whose employment normally requires an average of 1,040 hours of regularly scheduled public safety service per year; and
 - (e) for a retiree employed before retirement as a public safety service employee or a firefighter service employee in a position for which the participating employer established a regularly scheduled work period in excess of 2,080 hours per year, one-half of that regularly scheduled work period as long as the retiree has continuing employment in that same position.
- (4) "Phased retirement" means continuing employment:
 - (a) on a half-time basis of a retiree with the same participating employer following the retiree's retirement date while the retiree receives a reduced retirement allowance; or
 - (b) on a three-quarter time basis of a retiree with the same participating employer following the retiree's retirement date while the retiree receives a reduced retirement allowance if the retiree is employed as a public safety service employee or a firefighter service employee.
- (5) "Three-quarter time" means:
 - (a) a firefighter service employee whose employment normally requires an average of 1,560 hours of regularly scheduled firefighter service per year;
 - (b) a public safety service employee whose employment normally requires an average of 1,560 hours of regularly scheduled public safety service per year; and

- (c) for a retiree who was employed before retirement as a public safety service employee or a firefighter service employee in a position for which the participating employer established a regularly scheduled work period in excess of 2,080 hours per year, three quarters of that regularly scheduled work period as long as the retiree has continuing employment in that same position.

Amended by Chapter 98, 2020 General Session

49-11-1302 Phased retirement -- Voluntary participation -- Employer duties.

A participating employer may elect to participate in phased retirement for a retiree who has not completed the one-year employment separation requirement under Section 49-11-1204 under the conditions established under this part, if the participating employer:

- (1) establishes written policies and procedures for phased retirement that shall include provisions for:
 - (a) granting and denying a request for phased retirement;
 - (b) needed approvals within the participating employer;
 - (c) time limits or other restrictions;
 - (d) identifying positions that may be included or excluded; and
 - (e) the elements of a written agreement described under Section 49-11-1304;
- (2) enters into an agreement described under Section 49-11-1304;
- (3) submits an application to the office for phased retirement on behalf of the parties of the agreement described under Section 49-11-1304; and
- (4) complies with this part.

Enacted by Chapter 280, 2016 General Session

Amended by Chapter 310, 2016 General Session, (Coordination Clause)

49-11-1303 Phased retirement -- Eligibility -- Restrictions -- Amortization rate -- Public safety service or firefighter service employees.

- (1) A retiree is eligible for employment with only one position for only one participating employer under phased retirement following the retiree's retirement date if:
 - (a) the retiree:
 - (i) is eligible to retire and retires in accordance with this title;
 - (ii) has been employed full time, for not less than four years immediately before the retiree's retirement date;
 - (iii) is, at the time of retirement, at least:
 - (A) 50 years old, if the retiree is employed as a public safety service employee or a firefighter service employee; or
 - (B) 55 years old;
 - (iv) completes and submits all required retirement forms to the office; and
 - (v) prior to the retiree's retirement date, completes and submits all required phased retirement forms to the office; and
 - (b) the retiree and the participating employer enter into an agreement described under Section 49-11-1304.
- (2) A retiree shall begin phased retirement employment after the retiree's retirement date but no later than 120 days after the retiree's retirement date.
- (3) Except as provided in Subsection (4), for the period of the phased retirement:
 - (a) the retiree receives 50% of the retiree's monthly allowance;

- (b) the participating employer employs the retiree on a half-time basis;
 - (c) a participating employer that employs the retiree shall contribute the amortization rate to the office;
 - (d) the retiree or an alternate payee may not receive an annual cost-of-living adjustment to the retiree's or alternate payee's allowance;
 - (e) any death benefits payable to a surviving spouse or other beneficiary shall be paid based on 100% of the retiree's retirement allowance;
 - (f) the retiree may not receive any employer provided retirement benefits, service credit accruals, or any retirement related contributions from the participating employer; and
 - (g) except as specified under this section, a retiree working under phased retirement shall be treated in the same manner as any other part-time employee working a similar position and number of hours with the participating employer, including:
 - (i) any non-retirement related benefits;
 - (ii) leave benefits;
 - (iii) medical benefits; and
 - (iv) other benefits.
- (4)
- (a) If a retiree is employed as a public safety service employee or a firefighter service employee, for the period of the phased retirement the requirements of Subsection (3) or (4)(b) are satisfied.
 - (b) For the period of the phased retirement:
 - (i) the retiree is employed as a public safety service employee or a firefighter service employee;
 - (ii) the retiree receives 25% of the retiree's monthly allowance;
 - (iii) the participating employer employs the retiree on a three-quarter time basis;
 - (iv) a participating employer that employs the retiree shall contribute to the office the certified contribution rate applicable to the system that would have covered the retiree if the retiree's part-time position were considered to be an eligible, full-time position within the system;
 - (v) the retiree or an alternate payee may not receive an annual cost-of-living adjustment to the retiree's or alternate payee's allowance;
 - (vi) any death benefits payable to a surviving spouse or other beneficiary shall be paid based on 100% of the retiree's retirement allowance;
 - (vii) the retiree may not receive any employer provided retirement benefits, service credit accruals, or any retirement related contributions from the participating employer; and
 - (viii) except as specified under this section, a retiree working under phased retirement shall be treated in the same manner as any other part-time employee working a similar position and number of hours with the participating employer, including:
 - (A) any non-retirement related benefits;
 - (B) leave benefits;
 - (C) medical benefits; and
 - (D) other benefits.
- (5) The office shall begin paying 100% of the retiree's retirement allowance on the first day of the month following the month in which the office receives written notification and any required supporting documentation that the retiree's phased retirement has been irrevocably terminated.

Amended by Chapter 193, 2021 General Session

49-11-1304 Phased retirement agreements.

- (1) The participating employer and a willing and eligible retiree shall enter into a written agreement to participate in phased retirement.
- (2) The agreement shall specify the period of the phased retirement and, at the discretion of the agreeing parties, address:
 - (a) hours of work;
 - (b) job duties; and
 - (c) other arrangements related to the employment.

Enacted by Chapter 280, 2016 General Session

49-11-1305 Reporting -- Penalties.

- (1)
 - (a) A participating employer shall, within five business days, notify the office if the participating employer enters a phased retirement agreement with a retiree.
 - (b) A participating employer shall report to the office any change in status of the phased retirement in accordance with rules established under Section 49-11-1308.
 - (c) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.
- (2)
 - (a) A retiree who has entered into phased retirement agreement under this section shall report to the office the phased retirement agreement in accordance with rules established under Section 49-11-1308.
 - (b) If the retiree fails to report to the office as required under this section, the office shall withhold one month's allowance for each month the retiree fails to make the report, in a timely manner, required under Subsection (2)(a).
- (3) If a retiree receives a retirement allowance or portion of a retirement allowance in error or in violation of this part:
 - (a) the office shall cancel the retiree's retirement allowance; and
 - (b) the office shall recover any overpayment in accordance with Section 49-11-607.
- (4) If a retiree or participating employer violates this part, including a failure to report in accordance with this section, the retiree, participating employer, or both that are found to be responsible for the violation are liable to the office for the amount of any allowance overpayment, failure to make a required payment or contribution, or other amount needed to correct an error or incorrect benefit resulting from the violation.

Enacted by Chapter 280, 2016 General Session

49-11-1306 Reset of one year separation.

If a retiree is employed under a phased retirement agreement under this part, the termination date of the phased retirement employment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection 49-11-1204(2).

Amended by Chapter 98, 2020 General Session

49-11-1307 Phased retirement -- Adjustments or termination.

- (1) The Legislature may make adjustments to or terminate the phased retirement option created under this part, including:

- (a) amending phased retirement eligibility, restrictions, scope, or duration provisions;
 - (b) closing phased retirement to additional retirees; or
 - (c) terminating phased retirement for all participating retirees.
- (2) A participating employer and retiree enter into a phased retirement agreement subject to the adjustments or termination reserved in this section.

Enacted by Chapter 280, 2016 General Session

49-11-1308 Rulemaking.

The board may make rules to implement this part.

Enacted by Chapter 280, 2016 General Session